

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Anthony Fred Martin,	)	C/A No.: 4:13-1016-DCN-TER
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
William Byars; Investigator Lane,	)	
	)	
Defendants.	)	
	)	

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This is a civil action filed by a state prisoner. Therefore, in the event that a limitations issue arises, Plaintiff shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) DSC, pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

By order issued on May 24, 2013, Plaintiff was given a specific time frame in which to bring this case into proper form. (ECF No. 11.) Plaintiff has complied with the court's order, and this case is now in proper form.

Plaintiff has also filed a Motion for Judicial Notice. (ECF No. 16.) Plaintiff's Motion indicates that he mailed Forms USM-285 to the court on May 31, 2013, and asks that Judicial Notice be taken if the forms have not been received. *Id.* As the court received Plaintiff's service documents on June 3, 2013, his Motion for Judicial Notice is terminated as **moot**.

**PAYMENT OF THE FILING FEE:**

By filing this case, Plaintiff has incurred a debt to the United States of America in the amount of \$350.\* *See* 28 U.S.C. § 1914. This debt is not dischargeable in the event Plaintiff seeks relief under the bankruptcy provisions of the United States Code. *See* 11 U.S.C. § 523(a)(17). The Prison Litigation Reform Act (PLRA) of 1996 permits a prisoner to file a civil action without **prepayment** of fees or security, but requires the prisoner "to pay the full amount of the filing fee" as funds are available. *See* 28 U.S.C. § 1915(a), (b). As the court has granted Plaintiff permission to proceed *in forma pauperis*, **the agency having custody of Plaintiff shall collect payments from Plaintiff's prisoner trust account in accordance with 28 U.S.C. § 1915(b)(1) and (2), until the full \$350 filing fee is paid.** *See Torres v. O'Quinn*, 612 F.3d 237, 252 (4th Cir. 2010) ("We hold that 28 U.S.C. § 1915(b)(2) caps the amount of funds that may be withdrawn from an inmate's trust account at a maximum of twenty percent *regardless of the number of cases or appeals the inmate has filed.*") (emphasis in original).

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\* Effective May 1, 2013, an administrative fee of \$50 is added to the filing fee of \$350. The \$50 administrative fee, however, is not applicable to *in forma pauperis* cases.

**TO THE CLERK OF COURT:**

This case is subject to summary dismissal based on an initial screening conducted pursuant to 28 U.S.C. §1915 and/or 28 U.S.C. § 1915A. Therefore, the Clerk of Court shall ***not*** issue the summonses or forward this matter to the United States Marshal for service of process at this time.

**TO PLAINTIFF:**

Plaintiff **must** provide, and is responsible for, information sufficient to identify defendant Investigator Lane on the Form USM-285. The United States Marshal cannot serve an inadequately identified defendant. **Unserved defendants may be dismissed as parties to this case if not served within the time limit governed by Rule 4(m) and this Order.**

Pursuant to Rule 5 of the Federal Rules of Civil Procedure, any documents filed subsequent to the initial pleading must be served on parties. Unless otherwise ordered, service of subsequently filed documents on a defendant represented by an attorney is made on the attorney. Service on attorneys who have made an appearance in this court is effected by the court's Electronic Case Filing system through a computer generated notice of electronic filing. However, prior to defendants' attorney making an appearance in this court, Plaintiff must serve defendants with any documents Plaintiff files subsequent to the initial pleading and file a certificate of service that states who was served, what document was served, and how the document was served.

**IT IS SO ORDERED.**

September 6, 2013  
Florence, South Carolina

s/Thomas E. Rogers, III  
Thomas E. Rogers, III  
United States Magistrate Judge